

REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-10, 12, 13, 15, 17-28, and 33-44 are pending in this application. None of the specification, claims or drawings are amended by way of the present Response.

In the outstanding Office Action, Claims 1, 2, 4, 5, 7, 8, 10, 12, 13, 15, 17, 18, 23, 26-28, 33, 34 36-38 and 40-44 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent 6,990,238 to Saffer et al. (herein “Saffer”) in view of Xia Lin, et al., “A Self-Organizing Semantic Map ...” (herein “Lin”) and screen shots from the website www.washingtonian.com (hereinafter, “the Washingtonian screenshots”); Claims 3, 6, 9, 19, 20, 24, 25, 35 and 39 were rejected under 35 U.S.C. § 103(a) as unpatentable over Saffer in view of Lin, U.S. Patent No. 6,446,061 to Doerre et al. (herein “Doerre”) and the Washingtonian screenshots; and Claims 21 and 22 were rejected under 35 U.S.C. § 103(a) as unpatentable over Saffer in view of Lin, the Washingtonian screenshots, Doerre, and U.S. Patent 5,977,992 to Branscomb.

The rejection of Claims 1-10, 12, 13, 15, 17-28, and 33-44 is traversed. The rejection of each of these claims relies, at least in part, on the Washingtonian screenshots. However, the Washingtonian screenshots do not qualify as prior art with respect to the present application.

The Office Action makes reference to seven screen shots, and lists the following websites in Form PTO-892:

<http://www.washingtonian.com/articles/people/2543.html> (hereinafter, “website A”)

<http://web.archive.org/web/20071115165800/www.washingtonian.com/articles/health/1909.html> (hereinafter, “website B”)

The screen shots relied on by the PTO do not qualify as evidence that the features on the noted websites that are relied upon in the Office Action to reject the pending claims were known in 2003. M.P.E.P. § 2128 does allow for prior art disclosures on the Internet or on an on-line database to be considered to be publicly available as of the date the item was publicly posted. However, absent evidence of the date that the disclosure was publicly posted, if the publication itself does not include a publication date (or retrieval date), M.P.E.P. § 2128 makes it clear that the publication cannot be relied upon as prior art.

In the present case, the Office Action asserts that various functional aspects of the noted websites (for examples, the arrows that indicate previous and next page) disclose features recited in the claims of the present application, but then relies on the publication date of the content on these websites as evidence of the date the functional aspects were known. However, the date the content was originally published is not evidence of when the functional aspects of the website that currently display that content were originally incorporated into the website, and thereby made known to the public.

With respect to publication dates, website A is a current website that includes an article which the website indicates was published on January 1, 2003. Although the contents of the article can be relied upon as being publicly available as of January 1, 2003, the publication date of the article is not evidence that the website itself, including all of its functional elements, was available at the time the article was originally posted. For example, the U.S. PTO recently rolled out a new website that republishes numerous articles that are very old using the latest functional display components. The original publication date of each

of these articles might, in some circumstances, be used as evidence for when these articles were first available to the public, but in no way evidences when the website itself, as it currently appears was initially launched.

With respect to retrieval dates, the Office Action clearly used an internet archive tool (<http://www.archive.org/web/web.php>) to retrieve website B. As can be seen in the screen capture reproduced below of http://web.archive.org/web/*/www.washingtonian.com/articles/health/1909.html, the Office Action actually relies on a copy of website B that was archived on November 15, 2007, which is well after the present application was filed. Nevertheless, the Office Action relies on the dates included in the content of the websites, which is not evidence of when the website as it appeared on the retrieval dates was launched.



Enter Web Address:

[Adv Search](#) [Compare Archi](#)

Searched for <http://www.washingtonian.com/articles/health/1909.html>

11 Results

* denotes when site was updated.

Material typically becomes available here 6 months after collection. [See FAQ](#)

Search Results for Jan 01, 1996 - Apr 12, 2009

1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
0	0	0	0	0	0	0	0	0	0	1 pages	10 pages	0
pages	pages	pages	pages	pages	pages	pages	pages	pages	pages			pages
											Nov 10, 2006 *	Jan 16, 2007 *
												Feb 09, 2007 *
												Feb 17, 2007 *
												May 16, 2007 *
												Jun 16, 2007
												Jul 17, 2007
												Aug 18, 2007
												Sep 16, 2007 *
												Sep 17, 2007 *
												Nov 15, 2007 *

[Home](#) | [Help](#)

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Screen Capture of the Internet Archive relied on to produce screen shots in the Office Action

The Office Action also includes a statement on page 5 that “it is obvious that this setup was available within both 2003 and 2005.” Nothing in the record supports this conclusory allegation.

Further, the present application claims priority to GB0227683.0, which was filed on November 27, 2002. Thus, the priority document of the present application antedates the January 1, 2003 publication date the Office Action alleges evidences that the website itself, including all of its functional elements, was made available to the public. Accordingly, even

with the erroneous date proffered by the Office Action, the Washingtonian screenshots do not qualify as prior art with respect to the present application.

Accordingly, the rejections of Claims 1-10, 12, 13, 15, 17-28, and 33-44 that rely on the Washingtonian screenshots are improper. It is respectfully requested the rejection of Claims 1-10, 12, 13, 15, 17-28, and 33-44 be withdrawn.

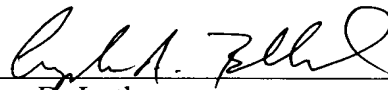
Should the Examiner continue to disagree with the above distinctions, Applicants respectfully request that the Examiner provide an explanation via Advisory Action pursuant to M.P.E.P. § 714.13 specifically rebutting the points raised herein for purposes of facilitating the Appeal process.

For the foregoing reasons, it is respectfully submitted that this application is now in condition for allowance. A Notice of Allowance for Claims 1-10, 12, 13, 15, 17-28, and 33-44 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, he or she is encouraged to contact Applicants' undersigned representative by the below listed telephone number.

Respectfully submitted,

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